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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 BRIAN R ELLIS,

10 Plaintiff,

11 v.

12 SNOHOMISH COUNTY JAIL - MEDICAL
13 STAFF, et al.,

14 Defendants.

15 Case No. C16-336 RSM-BAT

16 **ORDER STRIKING NOTING
17 DATE AND DIRECTING RE-
18 SERVICE OF DEFENDANTS'
19 MOTION FOR SUMMARY
20 JUDGMENT**

21 Pending before the Court is Defendants' Motion for Summary Judgment. Dkt. 27. The
22 motion was filed on December 23, 2016 and noted for this Court's consideration on January 20,
23 2017. *Id.* Defendants attempted to serve Plaintiff Brian R. Ellis with the summary judgment
motion and a Rand-Wyatt Notice on December 23, 2016. *Id.* and Dkt. 38. Plaintiff filed no
response to the summary judgment motion.

24 On January 20, 2017, defendants advised the Court that they had attempted to serve
25 plaintiff with their motion at his most recent address of record. Dkt. 17. Plaintiff filed a notice
26 of change of address with the Court on November 23, 2016 indicating that he was presently
27 confined at the SCORE Jail, 20817 17th Ave. S, Des Moines, WA, 98198. *Id.* On December
28 30, 2016, plaintiff's copy of defendants' motion for summary judgment, declarations, and Rand-

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30 **ORDER DIRECTING RE-SERVICE OF
31 DEFENDANTS' MOTION FOR SUMMARY
32 JUDGMENT** - 1

1 Wyatt Notice were returned to defendants via U.S. Mail, marked "RETURN TO SENDER Not
2 at SCORE Jail." Dkt. 39, Declaration of Bridget E. Casey, Deputy Prosecuting Attorney,
3 Snohomish County, Exhibit A. Ms. Casey searched jail and prison facilities on-line but as of
4 January 3, 2017, her search revealed that plaintiff had not been booked into any Washington
5 State Department of Corrections facility, the King County Jail, the Snohomish County Jail, or the
6 SCORE Jail. *Id.*, at 2.

7 Because plaintiff had not updated his address or provided any further change of address
8 notice with the Court since November 23, 2016, plaintiff was ordered to show cause why his
9 case should not be dismissed for failure to prosecute. Dkt. 40. On February 24, 2017, plaintiff
10 provided an updated address and requested that the Court continue defendants' motion for
11 summary judgment for an unspecified period of time. He claims that he was released from
12 prison on October 21, 2016, was then transported to the Department of Corrections and then at
13 some unspecified time, was released. Dkt. 42. He claims that because of the short notice, he
14 requires a continuance. *Id.*

15 Defendants object to any continuance because plaintiff was released over two months
16 ago, has provided no explanation of why he could not have contacted the Court prior to February
17 24, 2017, and has failed to identify any specific discovery or information he requires to respond
18 to the summary judgment motion. Dkt. 43. In fact, defendants point out that plaintiff did not
19 seek discovery during the entire time his case was pending. *Id.*

20 The question remains, however, as to whether plaintiff was ever properly served with
21 defendants' motion for summary judgment.

22 Accordingly, it is **ORDERED**:

23 1) Defendants are **ordered** to serve plaintiff with their motion for summary

ORDER DIRECTING RE-SERVICE OF
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT - 2

1 judgment, *Rand* notice, and accompanying documents at the current address provided by
2 plaintiff, and shall note the re-served motion for the fourth Friday following filing and service of
3 the motion.

4 2) Plaintiff's motion to continue (Dkt. 42) is **denied as moot**.

5 3) The Clerk shall **strike** the current noting date of January 20, 2017 (Dkt. 28).

6 DATED this 16th day of March, 2017.

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9 BRIAN A. TSUCHIDA
United States Magistrate Judge

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ORDER DIRECTING RE-SERVICE OF
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT - 3